

IN THE
UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

BIRDIE MAE DAVIS, BETTY ANN DAVIS and JAMES ALLEN DAVIS,
minors, by MRS. OLLIE MAE DAVIS, their mother and next
friend,

and

JOSEPH BENJAMIN PURIFOY and ETTA MAURINE PURIFOY, minors, by
O. B. PURIFOY, their father and next friend,

and

JULIETTE ELAINE DANIELS, WILLIE LERARON DANIELS, WYMAN EMANUEL
DANIELS AND CARL RAYMOND DANIELS, minors, by SAM DANIELS, their
father and next friend,

and

SHARON PAULETTE MORRISSETTE and RHONDA JEAN MORRISSETTE, minors,
by MRS. EARLINE W. MORRISSETTE, their mother and next friend,

and

JERILYN WILLIAMS, WALTER DANIEL RAINNEY and RUSSELL LIONEL RAINNEY,
minors, by REV. W. D. RAINNEY, their father and next friend,

and

CATHERINE RUTH DEER, minor, by J. W. DEER, her father and
next friend,

and

DEMOND GATES, minor, BY MRS. LEE C. ROPER, his mother and next
friend,

and

MAE WORNIE BOLTON, minor, by MR. AND MRS. ALGEA BOLTON, her
parents and next friends

and

JOHN JONES, MINOR, BY MR. AND MRS. WILLIE JONES, His parents and
next friends,

and

LLOYD MORRIS, minor, by MR. AND MRS. CLARENCE MORRIS, his parents
and next friends,

and

VERNON RUFFIN, minor, by MR. AND MRS. ROSCOE HENDERSON, his
parents and next friends,

Plaintiffs,

v.

BOARD OF SCHOOL COMMISSIONERS OF MOBILE COUNTY, WILLIAM B. CRANE,
Chairman, CHARLES E. McNEIL, JACK C. GALLALEE, ARTHUR SMITH, JR.,
and KENNETH REED, Members, CRANFORD H. BURNS, Superintendent,

Defendants

COMPLAINT

1.

The jurisdiction of this Court is invoked pursuant to the provisions
of Title 28, United States Code, Section 1343(3), this being a suit in
equity, authorized by law, Title 42, United States Code, Section 1983, to
be commenced by any citizen of the United States or other person within the
jurisdiction thereof to redress the deprivation, under color of statute,
ordinance, regulation, custom or usage of a State, of rights, privileges and

CIVIL

ACTION

NO. 3003-

immunities secured by the Constitution and laws of the United States. The rights, privileges and immunities sought to be secured by this action are rights, privileges and immunities secured by the due process and equal protection clauses of the Fourteenth Amendment to the Constitution of the United States, as hereinafter more fully appears.

2.

This is a proceeding for a preliminary and permanent injunction enjoining the Board of School Commissioners of Mobile County, its members and its Superintendent of Schools, Cranford H. Burns, from continuing their policy, practice, custom and usage of operating a dual school system in Mobile County, Alabama, based wholly on the race and color of the children attending schools in said county.

3.

The plaintiffs in this case are Birdie Mae Davis, Betty Ann Davis and James Allen Davis, minors, by Mrs. Ollie Mae Davis, their mother and next friend; Joseph Benjamin Purifoy and Etta Maurine Purifoy, minors, by O. B. Purifoy, their father and next friend; Juliette Elaine Daniels, Willie LeBaron Daniels, Wyman Emanuel Daniels and Carl Raymond Daniels, minors, by Sam Daniels, their father and next friend; Sharon Paulette Morrisette and Rhonda Jean Morrisette, minors, by Mrs. Earline W. Morrisette, their mother and next friend; Jerilyn Williams, Walter Daniel Rainey and Russell Lionel Rainey, minors, by Rev. W. D. Rainey, their father and next friend; Catherine Ruth Deer, minor, by J. W. Deer, her father and next friend; Demond Gates, minor, by Mrs. Lee C. Roper, his mother and next friend; Mae Wornie Bolton, minor, by Mr. and Mrs. Algea Bolton, her parents and next friends; John Jones, minor, by Mr. and Mrs. Willie Jones, his parents and next friends; Lloyd Morris, minor, by Mr. and Mrs. Clarence Morris, his parents and next friends; and Vernon Ruffin, minor, by Mr. and Mrs. Roscoe Henderson, his parents and next friends. Plaintiffs are all members of the Negro race and bring this action on their own behalf and on behalf of all other Negro children and their parents in Mobile County who are similarly situated and affected by the policy, practice, custom and usage complained of herein. Plaintiffs are all citizens of the United States and the State of Alabama, residing in Mobile County, Alabama. The minor plaintiffs and other minor Negro children

similarly situated are eligible to attend the public schools of Mobile County which are under the jurisdiction, management and control of the defendant Board, but from which the plaintiffs and all other Negro children similarly situated have been segregated because of their race pursuant to the policy, practice, custom and usage of the defendant Board. The members of the class on behalf of whom plaintiffs sue are so numerous as to make it impracticable to bring them all individually before this Court, but there are common questions of law and fact involved, common grievances arising out of common wrongs and common relief is sought for each plaintiff and for each member of the class. The plaintiffs fairly and adequately represent the interests of the class.

4.

The defendants in this case are the Board of School Commissioners of Mobile County. The members of said Board are William B. Crane, Chairman, Charles E. McNeil, Jack C. Gallalee, Arthur Smith, Jr., and Kenneth Reed. Cranford H. Burns is the Superintendent. The defendant Board maintains and generally supervises the public schools in Mobile County, Alabama, acting pursuant to the direction and authority contained in the State's constitutional provisions and statutes, and as such are officers and agents of the State of Alabama enforcing and exercising state laws and policies.

5.

Plaintiffs allege that the defendants, acting under color of the authority vested in them by the laws of the State of Alabama, have pursued and are presently following pursuant to and under color of state law, a policy, custom, practice and usage of operating the public school system of Mobile County, Alabama, on a basis that discriminates against plaintiffs and other Negroes similarly situated because of race or color, to wit:

(a) The defendant Board maintains and operates the public schools in Mobile County, Alabama, all of which schools are operated on a completely segregated basis. No Negro children residing within the County, and eligible to attend the public schools have ever been assigned by the Board to attend white schools, and in accordance with this policy, practice and custom, the plaintiffs are assigned to Negro schools located further from their homes than

schools limited to whites. Teachers, principals and other professional personnel are assigned by the defendant Board on the basis of race so that Negro teaching personnel are assigned to Negro schools and white teaching personnel are assigned to white schools. Bus transportation is provided on a racially segregated basis, and all curricula and extra-curricular activities and school programs are conducted on a racially segregated basis. All budgets and other funds appropriated and expended by defendants are appropriated and expended by defendants separately for Negro and white schools, respectively.

(b) On November 13, 1962, the adult plaintiffs, along with other local Negro citizens, all of whom had waited in vain for the defendant Board to operate the public schools in conformity with decisions of the United States Supreme Court dating back to 1954, submitted a petition to the Board requesting "the Mobile County Board of School Commissioners to reorganize the public school system of Mobile County to effect a policy of operation which will eliminate segregation based on race, color or creed."

(c) On January 15, 1963, defendant Board reported that after giving careful consideration to the integration petition, it had concluded "that it would be ill-advised and not to the best interests of your people for us to attempt to present a formula for integration of the public schools at this time." The Board referred to its program "to build and improve colored schools," suggested that integration might lead to unrest and disruption and expressed its sincere feeling "that it would be detrimental to 99% of the colored children in the public schools for any token integration to be attempted at this time."

(d) On January 30, 1963, the beginning of a new school semester, four minor plaintiffs, Mae Wornie Bolton, John Jones, Lloyd Morris and Vernon Ruffin, escorted by an adult plaintiff and other adult Negroes, attempted to enroll in the white Baker High School located only four miles from their homes. On the previous day, their requests for transfers from the Negro St. Elmo High School, 17 miles from their homes, had been denied by the St. Elmo School principal, Lemuel Taylor because the area of their residence, Hillsdale Heights, is in the St. Elmo School District. At the Baker School, plaintiffs were advised to address

their transfer requests to Dr. C. L. Scarborough, Assistant Superintendent of the defendant School Board. This was done in a single letter signed by an authorized representative of the plaintiffs J. L. LeFlore, but he was advised on January 31, 1963, by Assistant Superintendent Scarborough that each parent must personally file transfer requests in writing. Individual applications were filed, but to date plaintiffs have not been informed as to what, if any, action the Board has taken.

6.

Plaintiffs allege that the policy, custom, practice and usage of the defendant Board in requiring the minor plaintiffs and other Negro children similarly situated to attend racially segregated schools in Mobile County violates rights secured to plaintiff and other similarly situated by the equal protection and due process clauses of the Fourteenth Amendment to the Constitution of the United States and Title 42, United States Code, Section 1983.

7.

Plaintiffs have made every effort, as set forth above, to communicate their dissatisfaction with segregated schools to the defendant Board but without effecting any change. Plaintiffs have not sought to utilize the provisions of the state Placement of Pupils Act as adopted in 1955, Ala. Code, Tit. 52, Section 61(7), and submit that the exhaustion of remedies provided by this Act would prove futile and inadequate, in view of the policy of the defendants, to provide the relief which plaintiffs seek here.

8.

Plaintiffs and each of them and those similarly situated have suffered and will continue to suffer irreparable injury and harm caused by the acts of the defendant Board herein complained of. They have no plain, adequate or complete remedy to redress these wrongs other than this suit for injunctive relief. Any other remedy would be attended by such uncertainties and delays as to deny substantial relief, would involve a multiplicity of suits, cause further irreparable injury and occasion damage, vexation and inconvenience to the plaintiffs and those similarly situated.

WHEREFORE, plaintiffs respectfully pray that this Court grant the following relief:

1. Advance this cause on the docket and order a speedy hearing of plaintiff's

motion for preliminary injunction which is filed simultaneously with the filing of this complaint and grant the relief prayed for therein.

2. Order a speedy trial of the merits of this case.

3. Upon the conclusion of the trial, issue a permanent injunction forever restraining and enjoining the defendants, the Mobile County School Board, its members, employees and successors, and the Superintendent of Schools of Mobile County, his agents, employees and successors, and all persons in active concert and participation with the defendants from:

(a) continuing to operate a dual school system in Mobile County, Alabama based wholly upon the race and color of the children attending school in Mobile County;

(b) continuing to assign children to school in Mobile County on the basis of race and color;

(c) continuing to assign teachers, principals, supervisors and other professional school personnel to the schools of Mobile County on the basis of race and color of the personnel to be assigned and the race and color of the children attending the particular school to which the assignment is made;

(d) continuing to designate certain schools as Negro schools and certain schools as white schools;

(e) continuing to appropriate funds, approve curricula and extra-curricular activities and other school programs which are limited on the basis of race, or discriminatory on the basis of race;

(f) continuing to construct schools which are to be limited to attendance by one or the other racial group;

(g) making any other distinctions based wholly upon race and color in the operation of the public school system of Mobile County.

In the alternative, plaintiffs prays that this Court direct defendants to submit a complete plan, within a period of time to be determined by this Court, for the reorganization of the entire school system of Mobile County, Alabama, into a unitary non-racial system which shall include a plan for the reassignment of all children presently attending the public schools of Mobile County on a non-racial basis and which will provide for the future assignment of children to school on a non-racial basis, the assignment of teachers.

principals, supervisors and other professional school personnel on a non-racial basis, the elimination of racial designations as to schools, the elimination of all racial designations in the budgets, appropriations for school expenditures, and all plans for the construction of schools, and the elimination of racial restrictions on certain curricula and extra-curricular school activities, and the elimination of any other racial distinction in the operation of the school system in Mobile County which is based wholly upon race and color.

4. Plaintiffs pray that this Court retain jurisdiction of this case pending the transition to a unitary non-racial system.

5. Plaintiffs pray that this Court will grant them their costs herein and grant them such other, further, additional or alternative relief as may appear to a court of equity to be equitable and just.

Jack Greenberg
Constance Baker Motley
Derrick A. Bell, Jr.
Suite 1790
10 Columbus Circle
New York 19, New York

Attorneys for Plaintiffs

/s/ Vernon Z. Crawford
Vernon Z. Crawford
578 Davis Avenue
Mobile, Alabama

/s/ Clarence E. Moses
Clarence E. Moses
1050½ Davis Avenue
Mobile, Alabama

Attorneys for Purpose of Accepting Service

(Filed in U. S. District Court
Sou. Dist. Ala.
March 27, 1963)

(CAPTION OMITTED)

MOTION FOR PRELIMINARY INJUNCTION

Plaintiffs move this Court for a preliminary injunction pending the final disposition of this cause, and as grounds therefor rely upon the allegations of their complaint and show the following:

1. Plaintiffs continue to be assigned and forced to attend racially segregated schools operated by the defendants pursuant to state statutes, policy, practice, custom, and usage as set forth in the complaint.
2. Plaintiffs' constitutional rights are violated by such assignment and attendance at racially segregated schools.
3. Plaintiffs have petitioned the defendants in vain to initiate desegregation of the public schools in compliance with the United States Supreme Court school desegregation decision of 1954.
4. Plaintiffs are irreparably harmed by the defendant Board's continued failure either to desegregate the public schools under its jurisdiction or submit a plan for the reorganization of said school system on a unitary nonracial basis.
5. Plaintiffs have given defendants appropriate and adequate notice of their desire to attend desegregated schools. Defendants have refused such requests in terms that admit that the schools are presently operated on a racially segregated basis. See attached Exhibit.

WHEREFORE, plaintiffs respectfully pray that this Court grant the following relief:

1. Advance this cause on the docket and order a speedy hearing of plaintiffs' motion for preliminary injunction which is filed simultaneously with the filing of this complaint and grant the relief prayed for therein.
2. Order a speedy trial of the merits of this case.
3. Upon the conclusion of the trial, issue a permanent injunction forever restraining and enjoining the defendants, the Mobile County School Board, its members, employees and successors, and the Superintendent of Schools of Mobile County, his agents, employees and successors, and all persons in active concert and participation with the defendants from:

(a) continuing to operate a dual school system in Mobile County, Alabama based wholly upon the race and color of the children attending school in Mobile County;

(b) continuing to assign children to school in Mobile County on the basis of race and color;

(c) continuing to assign teachers, principals, supervisors and other professional school personnel to the schools of Mobile County on the basis of race and color of the personnel to be assigned and the race and color of the children attending the particular school to which the assignment is made;

(d) continuing to designate certain schools as Negro schools and certain schools as white schools;

(e) continuing to appropriate funds, approve curricula and extra-curricular activities and other school programs which are limited on the basis of race or discriminatory on the basis of race;

(f) continuing to construct schools which are to be limited to attendance by one or the other racial group;

(g) making any other distinctions based wholly upon race and color in the operation of the public school system of Mobile County.

In the alternative, plaintiffs pray that this Court direct defendants to submit a complete plan, within a period of time to be determined by this Court, for the reorganization of the entire school system of Mobile County, Alabama into a unitary nonracial system which shall include a plan for the reassignment of all children presently attending the public schools of Mobile County on a nonracial basis and which will provide for the future assignment of children to school on a nonracial basis, the assignment of teachers, principals, supervisors and other professional school personnel on a nonracial basis, the elimination of racial designations as to schools, the elimination of all racial designations in the budgets, appropriations for school expenditures, and all plans for the construction of schools, and the elimination of racial restrictions on certain curricula and extra-curricular school activities, and the elimination of any other racial distinction in the operation of the school system in Mobile County which is based wholly upon race and color.

4. Plaintiffs pray that this Court retain jurisdiction of this case pending the transition to a unitary nonracial system.

5. Plaintiffs pray that this Court will grant them their costs herein and grant them such other, further, additional or alternative relief as may appear to a court of equity to be equitable and just.

/c/ Clarence E. Moses
Clarence E. Moses
Attorney at Law
1050 Davis Avenue
Mobile, Alabama

/s/ Vernon Z. Crawford
Vernon Z. Crawford
578 Davis Avenue
Mobile, Alabama

Jack Greenberg
Constance Baker Motley
Derrick A. Bell, Jr.
Suite 1790
10 Columbus Circle
New York 19, New York

Attorneys for Plaintiffs

NOTICE OF MOTION

Please take notice that plaintiffs, by their undersigned attorneys, will bring on for hearing before the United States District Judge, at the United States Courthouse, on the 25th day of April, 1963, at 9:30 o'clock A.M., in the forenoon of that day, or as soon thereafter as counsel can be heard, the attached Motion for Preliminary Injunction pursuant to the provisions of Rule 65, Federal Rules of Civil Procedure.

/s/ Clarence E. Moses
Clarence E. Moses
Attorney at Law
1050½ Davis Avenue
Mobile, Alabama

/s/ Vernon Z. Crawford
Vernon Z. Crawford
578 Davis Avenue
Mobile, Alabama

Jack Greenberg
Constance Baker Motley
Derrick A. Bell, Jr.
Suite 1790
10 Columbus Circle
New York 19, New York
Attorneys for Plaintiffs

Filed in Clerk's Office
3-27-63

Jan. 15, 1963

TO: The Persons Who Signed The Petition Officially Received November 28, 1962:

The Board of School Commissioners has given very careful consideration to the petition which you presented on behalf of some 27 persons, asking that we adopt some plan of integration.

While the Board is not obligated to answer all of the letters and petitions received on various subjects, we want you to know we have given this subject our serious consideration. We feel, in the light of the obligations which the Board has, including the tremendous building program, that it would be ill-advised and not to the best interests of your people for us to attempt to present a formula for integration of the public schools at this time.

Substantial progress has been made in providing a quality education for the colored children of Mobile County. As you know, all taught in the schools have for many years been paid on the exact same basis, regardless of color. We have always tried to treat all parents, teachers and pupils on an impartial basis, and will continue to do so.

For a number of years, more than 50% of the capital outlay money has been spent to build and improve colored schools. Under our program next year, which entails the expenditure of some eleven million dollars, over seven million dollars of this is for colored schools. This is in line with our pledge when we worked for the five mill tax to get all of the children in public schools out of double sessions within five years, or sooner, if possible.

Frankly, we do not know and would hesitate to say what effect an integration program by the Board, or forced integration, would have in the shift of pupil load from one area to another, or whether or not there would be some serious incidents such as have occurred in other places in our country. However, we do know this, that if we are faced with forced integration it would seriously delay and possibly completely stop the Board's plans for carrying out our building program as is scheduled now. It would require an indefinite period of time to see where schools would be needed that might be different from those our present plans call for, and to determine the locations to which the pupil load would eventually gravitate.

Also, if integration should occur, whether forced or not, neither you nor we can know what the effect would be on the entire school system. No one can benefit from unrest and disruption.

We want you to know that the Board is deeply concerned and is anxious to carry out the building program as we have promised the citizens of Mobile County, and particularly the improvement and completion of sufficient colored schools which are so urgently needed.

We sincerely feel that it would be detrimental to 995 of the colored children in the public schools for any token integration to be attempted at this time. The Board feels that this program is far better for your people, as a whole, than the enforcement of any rights of a few to go to white public schools at the expense of the vast majority of the colored children, their teachers, and parents in Mobile County who would certainly suffer if the building program was hampered in any way.

This letter does not mean that this would merely stop or delay the building program for colored schools, but it would also affect white schools as well, which would be a great step backward in Mobile County's efforts to provide

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the best educational facilities possible for all its children.

Sincerely,

BOARD OF SCHOOL COMMISSIONERS
OF MOBILE COUNTY, ALABAMA

/s/ Charles E. McNeil
President

/s/ Arthur Smith, Jr.
Vice-President

/s/ William B. Crane
Member

/s/ Kenneth W. Reid
Member

/s/ Jack C. Gallalee
Member

CEM:mwl

ccs: Mr. John M. Will
c/o Mobile Press-Register

(CAPTION OMITTED)

MOTION TO DISMISS

Come now the defendants and move this Honorable Court to dismiss the complaint and as grounds therefor set forth the following:

The complaint fails to state a cause of action upon which relief can be granted.

/s/ GEORGE F. WOOD
For PILLANS, REAMS, TAPPAN, WOOD & ROBERTS
Attorneys for Defendants

Palmer Pillans
George F. Wood
A. L. Philips, Jr. and
Pillans, Reams, Tappan, Wood & Roberts,
Attorneys for the Defendants
510 Van Antwerp Building
Mobile, Alabama

I certify that a copy of the foregoing motion has been served on the plaintiffs by sending a copy by United States mail, postage prepaid, addressed to Vernon Z. Crawford, Attorney, 578 Davis Avenue, Mobile, Alabama; Clarence E. Moses, Attorney, 1050 1/2 Davis Avenue, Mobile, Alabama; Jack Greenberg, Constance Baker Motley and Derrick A. Bell, Jr., Attorneys, c/o Vernon Z. Crawford and c/o Clarence E. Moses, Attorney, Mobile, Alabama, on this 23rd day of April, 1963.

/s/ George F. Wood

Filed in U. S. District Court
4-23-63

(CAPTION OMITTED)

AFFIDAVIT

STATE OF ALABAMA SS
COUNTY OF MOBILE

Affidavit of Mr. Algea Bolton in support of plaintiffs' Motion for a Preliminary Injunction, who first being duly sworn, deposes and says:

1. I am an adult Negro plaintiff in the above-entitled action, and reside in the City of Mobile, State of Alabama.
2. I am the father of Mae Wormie Bolton, one of the twenty minor Negro plaintiffs on whose behalf this action is brought.
3. Mae Wormie Bolton attends the public schools of Mobile County operated by the defendant Board of School Commissioners of Mobile County. These schools are operated on a racially segregated basis.
4. My purpose in bringing this suit is to require the defendant School Board to desegregate the public schools of Mobile County, Alabama, in order that my child, and all other Negro children similarly situated, may obtain the desegregated education to which they are entitled under the Constitution of the United States.
5. My daughter is assigned by the defendant Board solely on the basis of race to the all Negro St. Elmo High School, located 17 miles from her home. White high schools are located within distances of from three to 6 miles of her residence.
6. On January 29, 1963, my daughter went to the principal of the St. Elmo High School and requested a transfer to the Baker High School, which request was denied for reasons set forth in a letter from the principal attached to this affidavit as EXHIBIT I.
7. On January 30, 1963, the beginning of a new school semester, my daughter and 3 other Negro students, all of whom are assigned to the St. Elmo High School, attempted to enroll in the white Baker High School located 4 miles from my home. The requests were denied, and plaintiffs were advised to address their transfer requests to Dr. C. L. Scarborough, Assistant Superintendent of the defendant School Board.
8. On January 31, 1963, I wrote Dr. Scarborough requesting that my daughter be transferred from the St. Elmo High School to the Baker High School, a copy of which letter is attached to this affidavit as EXHIBIT II. To date, I have received no word as to what action the Board has taken.
9. It is my belief that my child is being denied her constitutional rights and is suffering irreparable injury and harm because of the Board's failure to desegregate the Mobile County public schools.

/s/ Algea Bolton

Subscribed and sworn before me
this 23rd day of April, 1963
/s/ Thomas N. Reed (?)

Jan. 29, 1963

ST. ELMO HIGH SCHOOL, St. Elmo, Ala.
Mobile County Public School System
Re: Mae Warnie Bolton

Mrs. Helen Bolton
554 Felhorn Road
Mobile, Ala.

Dear Mrs. Bolton:

Your daughter, Mae Warnie came to my office this morning and requested a transfer to Baker High School. This transfer is not granted to her on the basis of these two rules governing the school districts which reads as follows:

(1) Each school should have its own separate and distinct district whether it be Elementary, a Junior, or a Senior High School, except in rural consolidated schools where bus routes shall for all practical purposes determine district lines.

(2) All pupils shall be required to attend school in the district where parents or guardians reside except as provided for in other stated policies or is otherwise approved by the Assistant Superintendent in charge of Pupil Personnel.

On the basis of these two rules you can see why a transfer is refused because Hillsdale Heights is in our school district, and you are living in the same place this semester as you did on last semester.

If this is not satisfactory may I refer you to Dr. C. L. Scarborough, Assistant Superintendent in charge of Pupil Personnel who I am sure will give you some assistance.

Yours truly
/s/ Lemuel Taylor
Principal

EXHIBIT I

554 Felhorn Drive
Hillsdale Heights
Mobile, Ala.
Jan. 31, 1963

Dr. C. L. Scarborough, Assistant Supt.
Mobile County Public School Board
504 Government St.
Mobile, Ala.

Dear Sir:

This is to respectfully request that the Mobile County School Board transfer my daughter, Mae Warnie Bolton, from the St. Elmo High School at St. Elmo, Alabama, to the Baker High School, which is located near our home.

The change is desired for the current new semester, and is being asked for because of the nearness of the Baker High School to our home and the inconvenience suffered in Mae Warnie having to travel the long distance to the St. Elmo High School.

Favorable consideration of this requested transfer will be appreciated.

Yours truly
s/ Algea Bolton

EXHIBIT II

(CAPTION OMITTED)

AFFIDAVIT

STATE OF ALABAMA SS:
COUNTY OF MOBILE

Affidavit of Mrs. Ollie Mae Davis in support of plaintiffs' Motion for a Preliminary Injunction, who being first duly sworn, deposes and says:

1. I am one of the adult Negro plaintiffs in the above-entitled action, and reside in the City of Mobile, State of Alabama.

2. I am the mother of three of the twenty minor Negro plaintiffs on whose behalf this action is brought.

3. My children, Birdie Mae Davis, Betty Ann David and James Allen Davis, each attend public schools in Mobile County operated by the defendant Mobile County Board of School Commissioners.

4. My purpose in bringing this suit is to require the defendant School Board to desegregate the public schools of Mobile County, Alabama, so that my children and all other Negro children similarly situated will be able to obtain assignment to, and education in, the public schools of Mobile County without regard to race or color.

5. In association with other Negro plaintiffs and citizens of Mobile County, I have vainly requested the defendant School Board to desegregate the public schools as required by the United States Supreme Court in 1954.

6. On or about November 13, 1962, along with other plaintiffs and Negro citizens, I signed a petition to the Board requesting "the Mobile County Board of School Commissioners to reorganize the public school system of Mobile County to effect a policy of operation which will eliminate segregation based on race, color or creed." A copy of this petition is attached to this affidavit as EXHIBIT A.

7. In response to this petition, the defendant Board reported on January 15, 1963, "that it would be ill-advised and not to the best interests of your people for us to attempt to present a formula for integration of the public schools at this time." A copy of the Board's reply is attached to this affidavit as EXHIBIT B.

8. It is my belief that my children are being denied their constitutional rights and are suffering irreparable injury and harm because of the Board's failure to desegregate the Mobile County public schools.

/s/ Mrs. Ollie Mae Davis
Mrs. Ollie Mae Davis

Subscribed and sworn before me
this 24th day of April, 1963
/s/ Thomas N. Reed
Notary Public,

FILED 4-24-63

TO:

THE BOARD OF EDUCATION OF MOBILE COUNTY, ALABAMA

We, the undersigned citizens and residents of Mobile County, are the parents or guardians of Negro children presently enrolled in the public schools of the county which are under your jurisdiction, management and control.

The schools in which our children are enrolled are limited to attendance by Negro children and are staffed entirely by Negro Personnel in accordance with the long standing policy, custom, and usage of the Board of Education of this county and as formerly required by Alabama law.

As you know, in 1954, 1955, and again ⁱⁿ 1958, the United States Supreme Court held racial segregation in public schools unconstitutional and required state authorities to initiate desegregation and to bring about the elimination of racial segregation in their public school systems with all deliberate speed.

In 1955, a petition similar to this petition was filed with this Board requesting a reorganization of the public school system of this county to meet the requirements of the Supreme Court's decision. This Board has never replied to that petition and has never proposed any plan for the reorganization of the biracial school system of this county into a unitary, non-racial system as required by the Supreme Court's decisions.

Therefore, we, the undersigned, herewith again petition this Board to eliminate racial segregation from the public schools of Mobile County. We petition this Board to present to the community, within the next 60 days, a plan for such desegregation which shall include provision for a prompt and reasonable start toward such desegregation and provide for the elimination of all racial distinctions and discriminations from the public school system, including the assignment of pupils and professional school personnel on a non-racial basis, with all deliberate speed.

(Some 19 signatures, most of which are not legible)

Ex A

*Ex B same as
exhibit attached
to Motion*

(CAPTION OMITTED)

**AFFIDAVIT IN OPPOSITION OF MOTION OF PLAINTIFFS
FOR A PRELIMINARY INJUNCTION**

Personally appeared before me, the undersigned authority, in and for said county in said state, Cranford H. Burns, who, being by me first duly sworn, on oath deposes and says:

My name is Cranford H. Burns, one of the defendants in the above styled action. I am a resident citizen of the City of Mobile, Mobile County, Alabama. I was first appointed as Superintendent of Schools of Mobile County, one of the defendants in the above action, on August 27, 1952, and I have served in that capacity continuously since that time. I am the Chief Executive Officer of the Board.

During the past five years, only 4 requests have been made by or on behalf of any Negro children to be assigned to any particular school attended by White children, being those of the four plaintiffs May Wornie Bolton, John Jones, Lloyd Morris and Vernon Ruffin. These four requests were handled administratively by my office and were denied without regard to considerations of race, but the denial was established School Board policy having application alike to White and Negro children. The factors which dictated an immediate administrative denial of the requests were the number of other children similarly situated and the crowded conditions of the school to which they sought admission.

During the past five years no request has been made by or on behalf of a white child to be assigned to a school attended by Negro children.

No appeal was made to the Board of School Commissioners in the case of any of the four minor plaintiffs above set out for review of the denial of their requests for transfer.

The schools of Mobile County are, and have been since World War II, inadequate as to space for the housing of the pupil load. The construction of classroom facilities is going forward at an accelerated rate but existing physical facilities are still taxed to capacity; temporary portable classrooms are being employed; and careful planning is needed to accomodate the public school children of Mobile County. Many Negro children and many White children are transported many miles each day in order to utilize to the best advantage the school buildings located in areas where crowding is less intense. The construction of new schools and the addition of classrooms to existing schools at a rapid rate, together with careful planning, has brought the number of children in double sessions, both White and Negro, to the lowest point in many years.

/s/ Cranford H. Burns
Cranford H. Burns, Superintendent of
Schools of Mobile County

Subscribed and sworn to before
me this 24 day of April, 1963

/s/ Margaret W. Lavoie
Notary Public

(FILED IN OPEN COURT APRIL 25,
1963, WILLIAM J. O'CONNOR, CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION

SONNIE WELLINGTON HEREFORD, IV.

A Minor, Etc., Et Al.,

Plaintiffs,

v.

HUNTSVILLE BOARD OF EDUCATION,

Et Al.,

Defendants.

CIVIL ACTION NO. 63-109

FILED IN CLERK'S OFFICE
Northern District of Alabama

Sep 6- 1963

WILLIAM E. DAVIS
Clerk, U.S. District Court

BY _____
Deputy Clerk

MOTION FOR TEMPORARY RESTRAINING ORDER

Plaintiffs, by their undersigned attorneys, move this Court for an order immediately restraining George C. Wallace, Governor of Alabama, from further obstructing or preventing compliance with the order of this Court of August 12, 1963 requiring racial desegregation of the public schools of Huntsville, Alabama to commence with the September 1963-64 school year. As grounds for this motion, plaintiffs show the following:

1. The minor children of the Negro plaintiffs were by order of this Court to enter public schools in Huntsville, Alabama, formerly restricted to white students with the commencement of the school year on Tuesday, September 3, 1963.

2. The defendant Board of Education postponed the opening of all schools until Friday, September 6, 1963.

3. On September 6, 1963, State Troopers of the Highway Patrol under the command of George C. Wallace, Governor of Alabama stationed themselves outside the formerly all-white public school which minor plaintiff Sonnie Wellington Hereford IV was scheduled to attend and barred his entrance. The State Troopers claimed the schools were closed pursuant to order from George C. Wallace, Governor of Alabama.

4. Adult Plaintiff, Sonnie W. Hereford III, was informed through public notice that the defendant Board of Education was proceeding with their plan to open the public schools on September 6, 1963. As of the morning of September 6, 1963, he had not been informed, by public or private notice, that the defendant Board of Education had rescinded or revoked their plan to open schools on September 6, 1963.

5. Plaintiffs have no other speedy or adequate remedy which they may pursue at this time other than this motion for a temporary restraining order as prayed since time is of the essence of the relief sought. Everyday lost from school is an irretrievable loss, not only to the minor plaintiffs, but to all white students who may be similarly

deprived of the right to attend schools.

6. No injury corresponding to that suffered by the plaintiffs will result to the public or George C. Wallace in his capacity as Governor of Alabama should the temporary restraining order be issued. Indeed, the interest of the public will be furthered by restraining unauthorized interference by the Governor of Alabama in the operation of Huntsville public schools. The Governor of Alabama, will merely, by such restraining order, be required to comply with the oath of his office to uphold the laws of the United States and to cease illegal interference with the order of this Court.

7. There is insufficient time to give the required notice of this motion. Plaintiffs have filed simultaneously with the motion for temporary restraining order, a motion for order to show cause, which should it issue, give George C. Wallace notice and opportunity for hearing.

WHEREFORE, plaintiffs pray that this Court enter an immediate order restraining George C. Wallace, Governor of Alabama, his agents, employees and all those in active concert with him from interfering and preventing compliance with the order of this Court of August 12, 1963 requiring desegregation to commence in the 1963-64 school year in the public schools of Huntsville, Alabama, pending hearing and

disposition of the motion for order to show cause why George
C. Wallace should not be so enjoined permanently.

Respectfully submitted,

/s/ ORZELL BILLINGSLEY, JR.
ORZELL BILLINGSLEY, JR.
PETER A. HALL
1630 Fourth Avenue North
Birmingham, Alabama

/s/ CONSTANCE BAKER MOTLEY

JACK GREENBERG
CONSTANCE BAKER MOTLEY
LEROY D. CLARK
10 Columbus Circle
New York 19, New York

Attorneys for Plaintiffs

Mr. Marshall

August 30, 1963

RAW:mhs

Mr. Wasserstrom

144-100-1-9 P.W.

School Integration in Birmingham

The following information was received from
Thelton Henderson at 12:20 PM today:

At Ramsey High School the Negro student will be
Richard Arnold Walker, 2425 9th Ct. S; West End High
School will have Patricia Marcus, 127 Morris Ave.,
Phone 324-5207, and Josephine Powell, 1410 Lamb Ave.
West. A questionable student there is Charles Anthony,
337 9th Ave. SW, Telephone 251-3355.

At Graymont School there will be Dwight Edward Armstrong
and Floyd Douglas Armstrong, both of 227 9th Ct. West.

Henderson has talked to the Armstrong family and
plans to talk to the other families later today. At
present, the Armstrongs' have made no plans concerning
transportation of the students to and from the school,
nor have they been advised of any special location to
which the students are to be brought.

The Negro parents are planning to attend a meeting
this Saturday evening with the Alabama County on human
rights, a bi-racial committee, at which time plans for
the opening day of school are supposed to be made.

cc: Records
Chrono
Doar
Barrett
Wasserstrom

Mr. Marshall

August 30, 1963

RAW:mhs

Mr. Wasserstrom

144-100-1-9

School Integration in Birmingham

The following information was received from the Federal Bureau of Investigation at 8:30 PM on August 29:

Two Negroes will be attending Graymont Elementary School; one Negro will be attending Ramsay High School and two Negroes will be attending West End High School. School opens on September 4 from 8:15 AM to 11:00 AM.

cc: Records ✓
Chrono
Doar
Barrett
Wasserstrom

UNITED STATES GOVERNMENT

DEPARTMENT OF JUSTICE

Memorandum

TO : The File

DATE: Aug. 31, 1963

SJB:11h

FROM : *[Signature]* John Barrett
Second Assistant
Civil Rights Division

SUBJECT: School Integration,
Birmingham, Alabama

On August 30, the FBI telephoned me the following information regarding Birmingham. On September 4 one Negro child will be entering Gramont Elementary School, two will be entering Ramsey High School, and two West End High School. The session on September 4 will run from 3:00 a.m. to 11:00 a.m.

144-100-1-9	
22	DEPARTMENT OF JUSTICE
	SEP 3 1963
	RECORDS BRANCH
	RECORDED

TELEGRAM SPECIAL

DOCKETED

SEP 5 1963

#14,433

WUA081 NSA098

NS BMD005 PD BIRMINGHAM ALA 4 1025A CST

ATTORNEY GEN ROBERT KENNEDY

DEPT OF JUSTICE WASHDC

WE THE UNDERSIGNED DO HEREBY REQUEST POLICE PROTECTION TO BE
ESPECIALLY PROVIDED FOR THE FOLLOWING NAMED FAMILIES ATT THEIR
RESIDENCE PLACES OF BUSINESS AND DURING THEIR COURSE OF TRAVEL

TO AND FROM THEIR RESPECTIVE SCHOOLS IN WHICH THEY ARE BEING
ENROLLED IN THE PUBLIC SCHOOL SYSTEM IN BIRMINGHAM ALABAMA

JAMES ARMSTRONG 227 9TH COURT WEST/BUSINESS ADDRESS 708 8TH
COURT NORTH TRAVELING TO AND FROM GRAYMONT ELEMENTARY SCHOOL

MRS MYRTLE WALKER RESIDENCE 2425 9TH COURT SOUTH TRAVELING
TO AND FROM RAMSAY HIGH SCHOOL MRS CALLIE POWELL RESIDENCE

1410 LOMB AVENUE WEST TRAVELING TO AND FROM WESTEND HIGH SCHOOL

MRS AMMIE MARCUS RESIDENCE 127 MORRIS AVENUE TRAVELING TO AND
FROM WESTEND HIGH SCHOOL

SEP 10 1963

Per 9/11/63

CIV. RIGHTS DIV. CIVIL RIGHTS BRANCH
Gen. Lit. Sec. Gen. Lit. Sec.

22		SEP 4 1963		REC RD
DEPARTMENT OF JUSTICE		CIVIL RIGHTS BRANCH		

REV F L SHUTTLESWORTH PRES. ALA CHRISTIAN MOVEMENT FOR HUMAN
RIGHTS MRS MYRTLE WALKER MRS AMMIE MARCUS MRS CALLIE POWELL
JAMES ARMSTRONG.
(59).

144P EDT SEP 4 63